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Attorney for Defendant
GERALD ARMSTRONG and
THE GERALD ARMSTRONG CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; MICHAEL WALTON; THE GERALD ARMSTRONG CORPORATION, a California for-profit corporation; DOES 1 through 100, inclusive, Defendants.	No. **157 680** **DEFENDANTS' EVIDENCE IN SUPPORT OF DEFENDANTS' MOTION TO COMMENCE <u>COORDINATION PROCEEDINGS</u>** Date: November 12, 1993 Time: 9:00 a.m. Dept: One Trial Date: None Set

<u>VOLUME THREE</u>

INDEX TO EXHIBITS

Volume One

EXHIBIT 1: Declaration of Ford Greene Authenticating Documents in litigation between Scientology and Gerald Armstrong.

Exhibit 1 (a): Memorandum of Intended Decision filed June 22, 1984 in Church of Scientology of California v. Gerald Armstrong, Los Angeles Superior Court, Case No. No. C 420 153 ("Armstrong I");

Exhibit 1 (b): Declaration of Gerald Armstrong filed September 14, 1993 in Church of Scientology International v. Armstrong, Los Angeles County Superior Court, Case No. BC 084 642 ("Armstrong III");

Exhibit 1 (c): Complaint in Church of Scientology International v. Armstrong, Los Angeles County Superior Court, Case No. BC 052 395 ("Armstrong II");

Exhibit 1 (d): Complaint in Armstrong III

Volume Two

Exhibit 1 (e): Memorandum of Points And Authorities In Support of Motion To Dismiss Or Stay Or Transfer To Los Angeles Superior Court filed March 5, 1992 in Armstrong II;

Exhibit 1 (f): Minute Order dated March 20, 1992, in Armstrong II granting Armstrong's motion to transfer case from Marin County Superior Court to Los Angeles County Superior Court

Exhibit 1 (g): Motion for Preliminary Injunction brought by Scientology in Armstrong II on May 7, 1992;

Exhibit 1 (h): Transcript of Proceedings on Motion for Preliminary Injunction, May 27, 1992, in Armstrong II;

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Exhibit 1 (i): Minute Order dated May 27, 1992, in Armstrong II partially granting preliminary injunction;

Volume Three

Exhibit 1 (j): Notice of Appeal of Preliminary Injunction in Armstrong II;

Exhibit 1 (k): Order To Show Cause Why Gerald Armstrong Should Not Be Held In Contempt filed December 31, 1992, in Armstrong II;

Exhibit 1 (l): Transcript of Proceedings of March 5, 1993, in Armstrong II;

Exhibit 1 (m): Excerpt of Transcript of Proceedings of December 23, 1991, in Armstrong I;

Exhibit (n): Minute Order filed March 23, 1993, in Armstrong II, staying all proceedings pending resolution of legality of settlement contract on appeal;

Volume Four

Exhibit 1 (o): Minute Order filed August 27, 1993, in Armstrong III ordering it transferred before Hon. David Horowitz;

Exhibit 1 (p): Minute Order filed October 6, 1993, in Armstrong III ordering it consolidated with Armstrong II and staying both actions pending ruling from the Court of Appeal;

Exhibit 1 (q): First Amended Answer in Armstrong II filed October 8, 1992.

Exhibit 1 (r): [Draft] Petition for Coordination herein.

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Attorneys for Defendant
GERALD ARMSTRONG

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation; Plaintiffs, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	No. BC 052395 **NOTICE OF APPEAL** [C.C.P. § 904.1]

TO: ALL INTERESTED PARTIES AND TO THEIR ATTORNEYS OF RECORD.

PLEASE TAKE NOTICE that Defendant and Appellant Gerald Armstrong hereby appeals to the Court of Appeal of the State of California, Second Appellate District, from the grant Preliminary Injunction entered on May 28, 1992, in Department 88 of the above-entitled court.

///

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Notice of Entry of Judgment was served by Defendant and Respoondent of June 5, 1992.

DATED: July 23, 1992

HUB LAW OFFICES

By: _____
FORD GREENE
Attorney for Defendant and Appellant
GERALD ARMSTRONG

HUB LAW OFFICES
Ford Greene, Esquire
711 Sir Francis Drake Blvd.
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PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: NOTICE OF APPEAL

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

Graham E. Berry, Esquire
LEWIS, D'AMATO, BRISBOIS & BISGAARD
221 North Figueroa Street. Suite 1200
Los Angeles, California 90012

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard, Suite 2000
Los Angeles, California 90028

[X] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[X] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: July 23, 1992

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Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

ORIGINAL FILED

DEC 31 1992

LOS ANGELES
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY OF INTERNATIONAL, a California not-for-profit religious corporation; Plaintiff, vs. GERALD ARMSTRONG and DOES 1 through 25, inclusive, Defendants.	Case No. BC 052395 ORDER TO SHOW CAUSE RE CONTEMPT 2-16-93 8:30 a.m. Dept. 86

TO: GERALD ARMSTRONG:

Good cause appearing,

YOU ARE ORDERED to appear in Department No. 86 of this Court, located at 111 North Hill Street, Los Angeles, California 90012, on ~~January~~ February 16, 1993 at 8:30 a.m., to show cause why ~~the~~ you should not be adjudged to be ~~order holding you~~ in contempt of Court ~~requested by plaintiff should not be made by this Court~~ for alleged violations of the court's order of May 28, 1992.

If ~~Plaintiff's motion is granted,~~ you are held to be in contempt of court, you will be ~~ordered to held in criminal contempt of this Court~~, subject~~ed~~ to a fine not to exceed $1,000.00 and jail time not to exceed five days for each contempt, as

this Court sees fit, ~~and further will be ordered to pay Plaintiff's costs, including attorneys' fees, in the bringing of the Application for Order to Show Cause Why Gerald Armstrong Should Not Be Held in Contempt.~~

Date: DEC 3 1 1992

RONALD M. SOHIGIAN

Judge Ronald Sohigian

H:\ARMSTRONG\ORDER.OSC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 86 HON. DIANE WAYNE, JUDGE

CHURCH OF SCIENTOLOGY, Plaintiff, vs. GERALD ARMSTRONG, et al., Defendants.	NO. BC 052 395

TRANSCRIPT OF PROCEEDINGS

March 5, 1993

APPEARANCES:

(See appearance page.)

COURT MONITOR: E. VELASCO
TRANSCRIPTION BY: FOX TRANSCRIPTIONS

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1 LOS ANGELES, CALIFORNIA, FRIDAY, MARCH 5, 1993, A.M.
2 DEPARTMENT NO. 86 HON. DIANE WAYNE, JUDGE
3
4 THE COURT: Church of Scientology versus Armstrong.
5 MR. WILSON: Good morning, Your Honor.
6 Andrew Wilson and Laurie Bartilson appearing on
7 behalf of the plaintiff, Church of Scientology.
8 MR. GREENE: Good morning, Your Honor.
9 Ford Greene and Paul Morantz on behalf of Gerald
10 Armstrong, who is sitting at the end of counsel table.
11 MR. WILSON: Your Honor, before we begin I'd like to
12 ask the court's permission to have Mr. Michael Hertzberg sit
13 at counsel table with me. He's not counsel in this action.
14 He's a New York attorney who represented my client in the
15 previous Armstrong action on the appeal.
16 THE COURT: It won't be necessary because we're not
17 going to go very far.
18 Gentlemen, let me ask -- I'm sorry.
19 MR. WILSON: Okay.
20 THE COURT: This case is on appeal?
21 MR. WILSON: Yes.
22 THE COURT: And it just seems to me -- you're the
23 moving party?
24 MR. WILSON: That's correct.
25 THE COURT: It seems to me ridiculous to hold this
26 hearing prior to a determination whether or not this is a
27 valid order. I mean, I have some serious questions about the
28 validity of the order. And I'm not prepared to waste my

1 time, if it's going to be heard. And apparently it's going
2 to be heard very soon, because the briefs have already been
3 filed and one is left to be filed; is that correct?
4 MR. GREENE: Actually, Your Honor, the respondent's
5 brief is due. Scientology's brief is due on March 22nd.
6 THE COURT: The respondent being the moving party here?
7 MR. GREENE: Being the moving party here and the
8 plaintiff in the action. And, as we noted in a footnote in
9 our papers and we were going to call the court's attention to
10 that fact again this morning.
11 THE COURT: It just seems like an inordinate waste of
12 our time.
13 MR. WILSON: May I address that point?
14 THE COURT: Sure. You can address, but --
15 MR. WILSON: And I will attempt to convince you.
16 THE COURT: You're not. Especially after seeing all
17 the papers you filed.
18 MR. WILSON: The point here is not whether
19 Judge Sohigian made an error.
20 THE COURT: No, no. I absolutely agree and I would not
21 relitigate the validity of the order and I'm not going to
22 relitigate that. And I think you're absolutely right. But
23 it does have to be a valid order.
24 Now, I don't know how broadly or narrowly you
25 find that but I think that it's stupid for me to waste my
26 time, your time, deciding whether or not Mr. Armstrong is in
27 actual contempt of an order that may be set aside.
28 MR. WILSON: I agree it would not be a good use of your

1 time.

2 THE COURT: Well, I don't mean that my time is so

3 valuable. I don't mean it in that sense.

4 MR. WILSON: It would not be a good use of judicial

5 time, but I don't believe that any of the issues --

6 THE COURT: That's not my personal time that I'm

7 talking about.

8 MR. WILSON: I don't believe that any of the issues

9 that are going to be addressed on appeal will solve the

10 problem of whether Mr. Armstrong should be held in contempt

11 for this very simple reason:

12 The cases say that the only excuse that

13 Mr. Armstrong could have for violating this court's order

14 would be if the court did not have jurisdiction. And the

15 cases talk about what that jurisdiction is and it's either

16 personal jurisdiction and subject matter jurisdiction.

17 There's no question that Judge Sohigian had

18 jurisdiction to issue this order. Mr. Greene tries to

19 bootstrap his arguments, which are essentially arguments that

20 Judge Sohigian's order was wrong, into arguments that

21 Judge Sohigian did not have jurisdiction.

22 But if you look at the cases that we've cited --

23 and I think this is a very important point -- particularly

24 the Walker v. City of Birmingham case, where in that case

25 there was an injunction issued against people marching, a

26 Civil Rights march, that involved the infamous Bull Connor,

27 who didn't give them a permit. A court enjoined them; they

28 violated the injunction and it went all the way up to the

1 Supreme Court.

2 And the Supreme Court said it doesn't matter this
3 ordinance was unconstitutional; it doesn't matter whether
4 your rights of free speech were violated. What matters is
5 you cannot disobey the order of the court.

6 And in the Walker case the Supreme Court made a
7 statement, and I'd like to read it to you briefly. And the
8 court said, "Without question, the state court that issued
9 the injunction had, as a court of equity, jurisdiction over
10 the petitioners and over the subject matter of the
11 controversy. And this is not a case where the injunction was
12 transparently invalid or had only a frivolous pretense to
13 validity.

14 We have consistently recognized the strong
15 interest of state and local governments in regulating the use
16 of their streets and other public places."

17 I submit to the court that the interest here that
18 the court has in making sure its orders are obeyed is at
19 least as strong as the interest of the State in Walker in
20 regulating its streets and public ways.

21 What's going on here is not that Mr. Armstrong is
22 involved in this hearing against the Church of Scientology.
23 This is a case of Mr. Armstrong against this court. There is
24 an order of this court and he violated it. That's what's
25 relevant here and there's no issue before the appellate court
26 that's going to resolve that.

27 THE COURT: Oh, but I think there is. And that's
28 whether or not this is an order --

1 I'll tell you, when I first looked at this order,
2 I thought the order was clear until I then read part of the
3 transcript. Then it became unclear to me. And I think that
4 is in front of the appellate court, whether or not this is an
5 order capable of being followed, because Judge Sohigian's
6 comments that at least it confused me a little bit.
7 So I do think that issue is there and I'm going
8 to put this matter over until I think that will be decided
9 without prejudice to anybody's rights and I would suggest
10 that you return in June. I think that would give us
11 sufficient time.
12 Your Honor, my concern -- and I know this is not
13 before the court, but my concern is that Mr. Armstrong has
14 stated in deposition -- you've probably seen that
15 statement -- he's not going to obey this agreement no matter
16 what a court says.
17 We have put forth numerous instances in which we
18 believe he is --
19 THE COURT: If that's a valid order, each time he
20 disobeys it, he faces five days in jail. I take contempt
21 very seriously. And, I mean, I don't treat it lightly and he
22 just does it at his peril.
23 MR. WILSON: Thank you.
24 THE COURT: All right. Let's pick a date in June. Why
25 don't we make it June 1st.
26 MR. WILSON: May I be able to look at my calendar?
27 THE COURT: Sure.
28 MR. GREENE: These proceedings are being electronically

recorded; right, Judge? Could we get a transcript.

THE COURT: Yes.

MR. GREENE: Thank you, Your Honor.

MS. BARTILSON: Your Honor, the case is scheduled for trial May 3rd. Judge Horowitz found no problem with going forward on the trial of this case, despite the appeal. And essentially the message that I hear Mr. Armstrong being told is you do the contempt at your peril, but by filing an appeal, no matter how frivolous, you can avoid an order of the court.

THE COURT: You know what? I don't try to interrupt you, so try not to interrupt me. All right.

MS. BARTILSON: I'm sorry. I apologize, Your Honor.

THE COURT: Is June 1st all right?

MR. GREENE: For me it's not, Your Honor. I have a conflict and maybe I can change that conflict, so I'll try.

THE COURT: June 1st. Is that all right for you?

MR. WILSON: Yes, it is, Your Honor.

THE COURT: We'll see you back here June 1st.

Mr. Armstrong, you are ordered to return on June 1st at 9:30.

MR. GREENE: Thank you, Your Honor.

(Proceedings concluded.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 86 HON. DIANE WAYNE, JUDGE

CHURCH OF SCIENTOLOGY, Plaintiff,	)	
vs.	)	NO. BC 052 395
GERALD ARMSTRONG, et al., Defendants.	)	

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, MARIE FOX, a duly designated transcriber, do hereby declare and certify under penalty of perjury that I have caused to be transcribed the portion of tape 1 which was duly recorded in the Superior Court of the State of California, County of Los Angeles, Department 86, on the 5th day of March, 1993, in the above-mentioned case, and that the foregoing 6 pages comprise a true and correct, accurate transcription of the aforementioned tape.

Dated this 19th day of March, 1993.

Marie Fox COPY

Transcriber

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 56 HON. BRUCE R. GEERNAERT, JUDGE

CHURCH OF SCIENTOLOGY OF CALIFORNIA, PLAINTIFF, VS. GERALD ARMSTRONG, DEFENDANT.	CASE NO. C 420 153

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, DECEMBER 23, 1991

APPPEARANCES:

(SEE APPEARANCE PAGE.)

HERBERT CANNON, CSR NO. 1923
OFFICIAL REPORTER

APPEARANCES:

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1 THEY CONSIDERED TO BE APPROPRIATE FOR THE COURT ORDER AND
2 THEN I GO OVER THEM AND SAY IS THIS REALLY SOMETHING THAT
3 IS THE BUSINESS OF THE COURT TO BE ORDERING AND ENFORCING
4 WITH CONTEMPT OR NOT?
5 AND I MAKE SURE THAT IT IS THE KIND OF CLEAR
6 AND CONCISE ORDER THAT CAN BE THE SUBJECT OF A CONTEMPT
7 PROCEEDING. SO MY BELIEF IS JUDGE BRECKENRIDGE, BEING A VERY
8 CAREFUL JUDGE, FOLLOWS ABOUT THE SAME PRACTICE AND IF HE HAD
9 BEEN PRESENTED THAT WHOLE AGREEMENT AND IF HE HAD BEEN ASKED
10 TO ORDER ITS PERFORMANCE, HE WOULD HAVE DUG HIS FEET IN
11 BECAUSE THAT IS ONE OF THE -- I HAVE SEEN -- I CAN'T SAY --
12 I'LL SAY ONE OF THE MOST AMBIGUOUS, ONE-SIDED AGREEMENTS I
13 HAVE EVER READ. AND I WOULD NOT HAVE ORDERED THE ENFORCEMENT
14 OF HARDLY ANY OF THE TERMS HAD I BEEN ASKED TO, EVEN ON THE
15 THREAT THAT, OKAY, THE CASE IS NOT SETTLED.
16 I KNOW WE LIKE TO SETTLE CASES. BUT WE DON'T
17 WANT TO SETTLE CASES AND, IN EFFECT, PROSTRATE THE COURT
18 SYSTEM INTO MAKING AN ORDER WHICH IS NOT FAIR OR IN THE
19 PUBLIC INTEREST.
20 SO BASICALLY, I HAVE TO CONCLUDE BASED ON THE
21 RECORD THAT THERE WAS NO ORDER; SIMPLY, HE WASN'T PRESENTED
22 THE ORDER. HE WAS NOT ASKED TO ORDER ITS PERFORMANCE. HE
23 DIDN'T ORDER ITS PERFORMANCE.
24 THE FIRST TIME THAT WOULD BE DONE WOULD BE IN
25 RESPONSE TO YOUR MOTION AT THIS TIME.
26 MR. HERTZBERG: JUDGE, LET ME RESPOND TO THAT.
27 FIRST OF ALL, I THINK YOUR HONOR KNOWS WE ARE
28 NOT CLAIMING THAT JUDGE BRECKENRIDGE SO ORDERED THE TERMS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 56 HON. BRUCE R. GEERNAERT, JUDGE

CHURCH OF SCIENTOLOGY OF CALIFORNIA, PLAINTIFF, VS. GERALD ARMSTRONG, DEFENDANT.	CASE NO. C 420 153 REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) SS
COUNTY OF LOS ANGELES)

I, HERBERT CANNON, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 77, COMPRISE A TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER ON DECEMBER 23, 1991.

DATED THIS 6TH DAY OF JANUARY, 1992.

Herbert Cannon CSR NO. 1923
OFFICIAL REPORTER

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: March 23, 1993

Honorable	DAVID A. HOROWITZ	, Judge	S. ROBLES	, Deputy Clerk
		, Deputy Sheriff	B. CHARLINE HOWELL	, Reporter
	C. AGUIRRE	, C. S. L.		, E/R Monitor

BC052395

(Parties and Counsel checked if present)

CHURCH OF SCIENTOLOGY, ETC

VS

GERALD ARMSTRONG

Counsel For Plaintiff: LAURIE BARTILSON (x)
ANDREW WILSON (x)

Counsel For Defendant: FORD GREENE (x)

NATURE OF PROCEEDINGS:

MOTION OF DEFENDNAT, GERALD ARMSTRONG, FOR STAY OR IN THE ALTERNATIVE, FOR AN EXTENSION OF TIME TO OPPOSE MOTIONS FOR SUMMARY ADJUDICATION;

D, Mot for stay of proceedings GRANTED. The action is stayed under CCP 916. Counsel are ordered to report any decision by the Court of Appeal to this Department, in writing, within one day of the issuance of the opinion so that this Court may lift the stay.

"...an appeal stays proceedings in the trial court upon the ..order appealed from or upon the matters embraced therein or affected thereby..." CCP 916. As the Church has stated in its Summary Adjudication motions, "The facts are undisputed, however, that Armstrong has breached the Agreement repeatedly and deliberately. Because of these breaches, a preliminary injunction was issued by the Court on May 28, 1992." Obviously, the validity of the Agreement is the basis for the preliminary injunction. One of the basis for the appeal is an attack on the legality and validity of the Agreement.

The central issue of this case is the legality and validity of the Agreement. The Court of Appeal could certainly reach that issue in its determination of the validity of the injunction. If it does, that ruling could be determinative of many of the issues of this case. It makes no sense to proceed with this matter until the Court of Appeal makes its ruling.

Any and all matters set in this department, including but not limited to the Motions set for 3/31/93, the Final Status Conference of 4/23/93 and the Trial of 5/3/93, are each advanced and vacated.

Defendant shall give notice.